
(2002) 01 JH CK 0039
In the Jharkhand High Court
Case No : CWJC No. 1993 of 2000 (R)

Mandira Chatterjee

APPELLANT

Vs

Bihar Public Service Commission and Others

RESPONDENT

Date of Decision : 07-01-2002

Acts Referred:

Citation : (2002) 01 JH CK 0039

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : A.K. Sahani, for the Appellant; A.K. Mehta, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Heard the parties and with their consent this writ application is disposed of at this stage on a limited point as to whether the impugned letter dated 30.6.2000 issued by respondent-Bihar Public Service Commission by which recommendation given by respondent No. 1 have been cancelled can be sustained in law?

2. Admitted facts are that petitioner was engaged as Lecturer of Physics on ad hoc basis in the Govt. womens Polytechnic. Ranchi and has continuously worked since. 1988.. In 1992, the appointment of the petitioner was approved by the Govt. However, on 2.7.1995 an advertisement was issued by respondent Bihar Public Service Commission for appointment of Lecturer in various colleges including Govt. Womens Polytechnic Ranchi. Petitioner did not apply against the said advertisement. However, after about three years a corrigendum to the said advertisement was issued on 18.2.1998 by the Government and petitioner then applied, for the said post. Petitioner's case is that on 20.8.1998 pursuant to the interview letter petitioner appeared in the interview and result was published on 1 1.10,1998, wherein petitioner was placed at Serial No. 2 in the subject of Physics. Consequently, a notification dated 20.11.1999 appointing the petitioner on the post of Lecturer in Physics in the pay scale of Rs. 2200-4000/- and the

petitioner was posted at Government Womens Polytechnic College. Ranchi. It appears that all of a sudden the impugned order was issued by the Commission withdrawing recommendation of the petitioner on the ground of non passing of preliminary examination. That letter was issued on the basis of Judgment passed in CWJC No. 9555/98 by the Patna High Court.

3. From perusal of judgment, a copy of which has been annexed as Annexure-14 to the writ application, it appears that some of the candidates field writ petitions for quashing the result of selection for the post of Lecturer in the Government Polytechnic Colleges and Mining Institute under the Science and Technology Department of the State Government. The Patna High Court in the said judgment held that passing of written test being necessary condition for being called for interview those who either did not appear at such test or did not pass were clearly not eligible to be called for interview and ultimately recommended for appointment. The impugned order was Issued on the basis of the aforesaid judgment on the ground that petitioner did not pass screening test. The learned Judge however, in the said judgment made certain observation which reads as under :--

"I am conscious of the fact that the above finding is likely to visit the concerned part-time Lecturer with adverse consequences. Counsel for the parties however, agreed that this court may merely clarify the position and lay down the principles on which the selection has to be made, and rest of the work may be performed by the Commission, I would therefore, clarify that if as a result of the aforesaid finding, the selection/recommendation of any part time Lecturer is to be withdrawn, the" Commission would be well advised to give notice to them before taking such action."

4. Mr. A.K. Mehta. learned counsel for the University has very fairly conceded that petitioner was neither a party in the aforementioned writ petition nor any show cause notice was issued by the Commission before taking a decision for withdrawal of the recommendation of the petitioner for appointment on the post of Lecturer. A letter annexed with the counter-affidavit is merely communication of the decision taken by the Commission. Moreover admittedly petitioner has been working since 1988 and in 1992 appointment was approved by the Government and thereafter in. 1998 he was declared successful in the result published and his name was recommended by the appointment committee for appointment.

5. Taking into consideration all these facts. I am of the opinion that issuance of impugned letter by the Commission without giving opportunity of hearing to the petitioner is violative of principles of natural justice. On this ground alone the impugned decision in the letter can not be sustained in law. This writ application is therefore allowed and the impugned letter as contained in Annexure-13 to the writ application is quashed. However, this order will not debar the respondent-Bihar Public Service Commission to take decision in accordance with law after giving opportunity of hearing to the petitioner.